

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
)
) v.) Criminal Action No.
) 08-00262-01/02-CR-W-GAF
IRALEE E. FRENCH, JR.,)
and)
THIRPLUS MOOSE,)
)
) Defendants.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on June 15, 2011. Defendant Iralee French, Jr., appeared in person and with Assistant Federal Public Defender Steve Moss. Defendant Thirplus Moose appeared in person and with appointed counsel Lisa Nouri. The United States of America appeared by Assistant United States Attorney David Ketchmark.

I. BACKGROUND

On September 23, 2008, an indictment was returned charging defendants with one count of conspiracy to commit armed bank robbery, in violation of 18 § U.S.C. § 371; one count of armed bank robbery with forcible restraint, in violation of 18 U.S.C. §§ 2113(a) and (e); three counts of brandishing a firearm during a crime of violence, in violation of 18 U.S.C. §

924(c)(1)(A)(ii); one count of killing a person while committing attempted armed bank robbery, in violation of 18 U.S.C. § 2113(a) and (e); one count of using a firearm during a crime of violence causing murder, in violation of 18 U.S.C. §§ 924(c)(1)(A)(iii) and (j)(1); and two counts of carjacking, in violation of 18 U.S.C. § 2119.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Ketchmark announced that United States Attorney Beth Phillips will be the trial counsel for the government. AUSA David Ketchmark will assist. The case agents to be seated at counsel table are Special Agent Michael Mrachek, FBI, and Detective To Smith, KCPD.

Mr. Moss announced that he will be the trial counsel for defendant Iralee French, Jr. Investigator Ron Ninemire and Stephanie Elliott paralegal, will assist.

Ms. Nouri announced that she will be the trial counsel for defendant Thirplus Moose. Investigator Michael Armstrong may assist at trial.

III. OUTSTANDING MOTIONS

There is currently pending for ruling by the district judge an appeal of an order denying defendant French's motion to sever (document number 156).

IV. TRIAL WITNESSES

Mr. Ketchmark announced that the government intends to call 60 to 75 witnesses with stipulations during the trial.

Mr. Moss announced that defendant Iralee French, Jr., intends to call 10 witnesses during the trial. The defendant may testify.

Ms. Nouri announced that defendant Thirplus Moose intends to call 6 witnesses during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. Ketchmark announced that the government will offer approximately 400 to 500 exhibits in evidence during the trial.

Mr. Moss announced that defendant Iralee French, Jr., will offer approximately 50 exhibits in evidence during the trial.

Ms. Nouri announced that defendant Thirplus Moose will offer approximately 20 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Moss announced that defendant Iralee French, Jr., will rely on the defense of general denial.

Ms. Nouri announced that defendant Thirplus Moose will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Moss stated this case is definitely for trial.

Ms. Nouri stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to business records and FDIC insurance.

IX. TRIAL TIME

Counsel were in agreement that this case will take 2 weeks to try.

X. WITNESS AND EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

Witness Lists. The government filed a proposed witness list on May 11, 2010 (document number 159). Defendant French filed a proposed witness list on June 15, 2011 (document number 210). Defendant Moose filed a proposed witness list on June 14, 2011 (document number 207).

Exhibit Lists. The government filed an Exhibit List on June 24, 2010 (document number 180). Defendant French filed an Exhibit List on June 15, 2011 (document number 211). Defendant Moose filed an Exhibit List on June 14, 2011 (document number 208).

Voir Dire. The U. S. Magistrate Judge ordered that counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, July 6, 2011. The government filed proposed voir dire on June 24, 2010 (document number 180).

Jury Instructions. The U. S. Magistrate Judge ordered that counsel for each party file and serve requested jury instructions

by or before noon, Wednesday, July 6, 2011. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine on the following issues will probably be renewed and/or filed: causation of death, admissibility of "reverse 404(b)" evidence, admissibility of hearsay evidence by defendants, admissibility of expert testimony on the cause of death.

There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case is specially set for trial on July 18, 2011, before the Honorable Gary Fenner.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
June 15, 2011

cc: Mr. Kevin Lyon